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MINUTES OF THE ZONING BOARD
PUBLIC HEARING & REGULAR MEETING,
HELD MONDAY, FEBRUARY 23, 2015, 7:00 P.M.,
4TH FLOOR, CAFETERIA, GOVERNMENT CENTER
BUILDING, 888 WASHINGTON BLVD,
STAMFORD, CT 06901

Present for the Board: Rosanne McManus (left 9:00pm), William Morris, Barry Michelson, David Stein (arrived 9:00pm) and Joanna Gwozdzowski. Present for staff: David Killeen, Associate Planner.

Mr. Michelson (acting Chair) called the meeting to order at 7:04 pm. Alternate Ms. Gwozdzowski was seated in the absence of Mr. Mills.

PUBLIC HEARING

1. **Application 214-33 – HIGH RIDGE REAL ESTATE OWNER, LLC, Text change,** to Amend Article II, Section 3A, Definition 98.1 (Surgery Center/Out Patient) to clarify the term “gross floor area” and that authorization of special exceptions for said use exceeding 15, 000 s.f. rests with the Zoning Board; amend Article III, Section 9, BBB.2 to allow Surgery Center/Out Patient as a permitted use in the C-D District with a limitation of six (6) operating rooms/surgical suites; amend Section 9, BBB.3 to exempt emergency generators not exceeding eight feet in height, setback a minimum of 23 feet from the property line and adequately screened, from the calculation of non-porous surface area coverage, and amend Section 9 BBB.3 to require that emergency generators in the C-D District have a minimum 23 feet setback from the boundary line of a residential district (*continued from February 12, 2015*).
2. **Application 214-34 – HIGH RIDGE REAL ESTATE OWNER, LLC, 0 Turn of River Road, Final Site & Architectural Plans,** Applicant requests approval of Final Site plans for change of use from general office use of 14, 147 s.f. to a Surgery Center/Out Patient facility on the third floor of Building 5 and to install an emergency generator with landscaped screening in a C-D district (*continued from February 12, 2015*).

Mr. Michelson opened the continued hearing on the two applications. He asked Attorney O’Hanlan if he had any new information to provide to the Zoning Board.

Attorney O’Hanlan submitted a copy of the relevant City Charter referenced at the last public hearing (Section C1-40-2, saving clause) and stated he would provide closing comments after the public was given the chance to speak in favor or opposition to these applications.

Mr. Michelson asked if anyone from the public wanted to speak.

Attorney William Hennessey, Carmody, Torrance, Sandak & Hennessey, LLP of Stamford, came forward to speak. He indicated he was representing Stamford Hospital which is still in

opposition to this proposal until a study is completed. He said he had three speakers to present their opposition, David Smith, Attorney Stephen Cowherd and David Gamble. Attorney Hennessey highlighted 3 issues he felt should be considered: 1) regarding the Planning Board reconsideration of their referral comments on the proposed text change - he believes the Planning Board does not have the authority to reconsider their report per the Stamford Charter. He believes their revised report creates uncertainty as to the voting requirements by the Zoning Board. He reminded the Board that zoning needs to be applied under the uniformity rule; 2) Technically, is this application materially different than the last application? and if not, the City Charter prohibits the Zoning Board from considering this current application and 3) an analysis of the reasons for denial of the first application suggests the applicant's revised language does not respond to the reasons for denial. The application was not denied because there was a fear the use would proliferate in the C-D district. He pointed out that such surgical outpatient centers are permitted in other districts of the City currently.

Attorney Hennessey introduced David Smith, Sr., Vice President for Strategy, Stamford Health Systems. Mr. Smith said the Hospital respects the applicant and ONS and indicated they are already working together. The Hospital is concerned that adoption of the text change could open up new areas in which these outpatient surgical centers could locate without an understanding of the impacts. Years ago, when the Hospital considered options for their expansion, the City encouraged the Hospital to stay in its current location. The Hospital was pleased to join other neighborhood leaders, such as Charter Oak, in developing plans to revitalize the West Side and to create the Vita Health District. So far, the revitalization is working, but there is still a need to be cautious. The proposed surgical uses should not be permitted remotely in office parks as happened in the suburbs of Bridgeport.

Attorney Hennessey introduced David Gamble, Architect and Urban Planner, who helped develop the plans for the Vita Health District. Mr. Gamble explained how the planning process was used to guide decisions to prevent the Hospital from building on the periphery but instead, concentrating on the West Side. He saw a good, supportive partnership on the West Side. He questioned if this was the right time to build on the periphery or if it was better to concentrate uses at the Hospital.

Attorney Hennessey introduced Attorney Stephen Cowherd who explained to the Zoning Board the limitations of the Certificate of Need process and explained that the subject use would rely on a grandfathered license for a fertility center. He referred to the points he made in his correspondence of February 12, 2015 to the Zoning Board.

Attorney Hennessey concluded their opposition by commenting on the testimony of Planner Hiram Peck. He questioned Mr. Peck's credentials to comment on two legal questions: whether this application constituted spot zoning and whether the subject application was substantially different than the previous one. He also questioned why Mr. Peck saw this text change as a creative way to control these uses. Attorney Hennessey thought the special exception process would be a better tool. He felt there was not enough empirical data to help the Board consider future text changes to allow more surgical suites. He asked why Mr. Peck considered one aspect of the proposal's impact on the Master Plan, but failed to address the impact of this proposal on the West Side revitalization, which is also recognized in the Master Plan. Attorney Hennessey wondered how DSSD would react if someone were to propose a text change to allow a retail

outlet store in the office parks. He said this was bad planning. Attorney Feinberg submitted a summary of reports prepared to address a retail strategy for the Stamford CBD, prepared in the 1990's for comparison. Attorney Hennessey suggested a study should be prepared to 1) identify a City of similar size and demographics to Stamford, 2) study regulations to determine if such surgical suites are regulated differently. He asked the Board to deny this application because it is 1) an illegal resubmission, 2) illegal spot zoning, 3) creates confusion around the Planning Board's referral comments (Attorney Hennessey believes a super majority is required if their suggested language is not included), 4) no empirical data has been provided to support the current proposal, 5) unenforceable by the ZEO and 6) terrible planning, based on a tenant being in the wings.

Attorney O'Hanlan was given the opportunity to respond and close his presentation. He asked if others from the public would be allowed to provide testimony. Acting Chair Michelson said yes and he asked if anyone wanted to speak.

Jack Condlin, President of the Chamber of Commerce spoke in favor. He said that the use is now permitted in multiple districts and that the recently adopted Master Plan recognized the need for growth and expansion of medical services in the City. The Chamber feels this would be beneficial to Stamford.

Attorney O'Hanlan asked if the Board had any questions on the Site Plan, which is also part of these applications. There were no questions. He noted that the proposed setback of 23' for generators is to prevent a nonconformity for an existing generator on the subject property. He stated that the property owner is asking what any property owner would ask. He encouraged the Board to listen to Staff and then stated there were omissions in the Hospital's presentation: 1) the Planning Board determined this application was consistent with the Master Plan, 2) the Zoning Board did discuss the issue of proliferation with the previous application at their September 15, 2014 meeting. He feels the Hospital's comments are to create a restraint of trade. They have offered no land use or zoning concerns, such as traffic or parking. He concluded by stating: 1) this is good for Stamford, 2) the Chamber of Commerce supports these applications, 3) the Applicant has submitted a report by an independent, professional planner, 4) this use is ideal for the proposed site, 5) other than competition, can the Board determine if there are other arguments against this use? Attorney O'Hanlan pointed to the map that illustrated where this use is currently permitted and reported that one Planning Board member noted that they are already spread through the City and that the current distribution didn't seem to impact the Hospital.

Acting Chair Michelson asked if the Zoning Board members had any additional questions.

Ms. McManus said no.

Mr. Morris asked what Attorney O'Hanlan felt about the Planning Board's recommendation to restrict this use to a single entity? Attorney O'Hanlan responded that the Board's suggestion should be considered advisory and that the Board's comments did address the Master Plan. The Zoning Board can disagree with the Planning Board about the additional changes to the text. The applicant does not support that additional language.

Ms. Gwozdzowski reported she had viewed the video of the February 12, 2015 meeting and was qualified to act. She asked if the fertility center would be part of this proposal. Attorney O'Hanlan stated he does not know if the fertility center will continue to operate at this location.

Mr. Morris said he would like to ask the City Attorney for their opinion on the Planning Board recommendation to restrict this to a single entity and how that impacts the voting requirements.

Mr. Michelson announced that the public hearing would be continued to Monday, March 2, 2015 at 7:00pm in the 4th floor cafeteria for final Board questions.

The Board took a break at 8:55pm and Ms. McManus left the meeting. The Board reconvened at 9:05pm and Mr. Stein joined the Board at this point.

Mr. Morris moved to take the agenda out of order, seconded by Mr. Stein and the motion was approved 4:0 (Michelson, Morris, Stein and Gwozdzowski).

OLD BUSINESS

2. Appl. 212-05 – BBSF, LLC Metro Tower (*request for time extension*)

Mr. Killeen explained the time extension request for Metro Tower. Attorney Hennessey commented that the owner was coordinating plans with the proposed State Transit-Oriented Development (TOD) and needed more time.

Mr. Stein moved to approve the time extension, seconded by Ms. Gwozdzowski and the motion was approved 4:0 (Michelson, Morris, Stein and Gwozdzowski).

3. Appl. 207-12 and 207-13 (General Development Plan as amended) BBSF, LLC & Affordable Housing Development Company – *Metro Green (request for time extension)*

Attorney Feinberg explained that the applicant was still finalizing their financing package.

Mr. Stein moved to approve the time extension, seconded by Ms. Gwozdzowski and the motion was approved 4:0 (Michelson, Morris, Stein and Gwozdzowski).

4. Appl. 213-42 – 992 Summer Street, Inspirica & Charter Oak Communities (*request for time extension*)

Mr. Killeen explained the time extension request, noting that Charter Oak had already begun the permit process.

Ms. Gwozdzowski moved to approve the time extension, seconded by Ms. Gwozdzowski and the motion was approved 4:0 (Michelson, Morris, Stein and Gwozdzowski).

Mr. Morris moved to take the agenda out of order, seconded by Mr. Stein and the motion was approved 4:0 (Michelson, Morris, Stein and Gwozdzowski).

1. Appl. 210-16MOD – HP Gateway Land - Garage (*administrative review of Banner package*)

Attorney John Freeman discussed their request for new banners and explained these banners would replace existing temporary signs. Mr. Killeen explained that the ZEO and Land Use Bureau Chief had rendered an opinion that provided the applicant sufficient area for the wall signage on Washington Blvd, but that there seemed to be no regulation to support the proposed banner on the tractor trailer. Attorney Freeman agreed he would try to work with Staff to come up with a creative solution.

Mr. Stein moved to approve banner request #1 for a temporary 10'x44' banner sign and to deny without prejudice banner request #2 on the tractor trailer for a 10'x46' sign, seconded by Mr. Morris and the motion was approved 4:0 (Michelson, Morris, Stein and Gwozdzowski).

Mr. Morris moved to take waive rules to take the agenda out of order and return to the approval of minutes, seconded by Ms. Gwozdzowski and the motion was approved 4:0 (Michelson, Morris, Stein and Gwozdzowski).

APPROVAL OF MINUTES:

Minutes for Approval: January 12, 2015

After a brief discussion, Mr. Stein moved to approve the minutes as modified with Mr. Michelson's corrections, seconded by Mr. Morris and the motion was approved 3:0 (Michelson, Morris and Stein; Gwozdzowski not voting as she wasn't present at the meeting).

Minutes for Approval: February 12, 2015

After a brief discussion, Mr. Morris moved to approve the minutes as modified with Mr. Michelson's corrections, seconded by Mr. Stein and the motion was approved 3:0 (Michelson, Morris and Stein; Gwozdzowski not voting as she wasn't present at the meeting).

PENDING APPLICATIONS:

1. Application 214-24 – TWO YALE & TOWNE, LLC, 115 Towne St

Mr. Michelson continued discussion of this application until Monday, March 2, 2015 at 7:00pm on the 4th Floor Cafeteria.

2. Application 214-38 – RICHARD W. REDNISS (22 FIRST CORP), Text change

Mr. Killeen reported that the Applicant agreed to remove the request for approval of language authorizing the Board to approve alternate parking standards in certain cases.

Mr. Morris moved to approve the text change with the revised language, seconded by Mr. Stein and the motion was approved 4:0 (Michelson, Morris, Stein and Gwozdzowski). The language will now read:

Amend Article III, Section 9-C-3 (IP-D Designed Industrial Park District) by adding subparagraph “e.”, to read as follows:

e. Schools (without dormitories): Public, Non-Public, Secretarial & Vocational, and Colleges;

Amend Article III, Section 9-C-6 (IP-D Designed Industrial Park District) by adding a sentence at the end of the paragraph, to read as follows:

Required parking for school uses shall be determined by the standards of Section 12 of the Zoning Regulations.

Mr. Morris moved to adjourn, seconded by Ms. Gwozdzowski and the motion was approved 4:0 (Michelson, Morris, Stein and Gwozdzowski).

There being no further business, the meeting adjourned at 9:35 p.m.

Respectfully submitted,

Barry Michelson, Secretary
Stamford Zoning Board